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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,839	05/16/2001	Michael J. Brunelle	782.1104	9188

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EXAMINER

GAUTHIER, GERALD

ART UNIT PAPER NUMBER

2645

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,839

Applicant(s)

BRUNELLE ET AL.

Examiner

Gerald Gauthier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6, 8-18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 6, 8-18 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of **claim(s) 2-4, 6, 8-18 and 21** is withdrawn in view of the newly discovered reference(s) to Voit. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim(s) 4, 8-15 and 21** are rejected under 35 U.S.C. 102(b) as being anticipated by Voit et al. (US 5,825,862).

Regarding **claim(s) 4 and 21**, Voit discloses a method of managing calls through an entertainment system (FIG. 1 and column 1, lines 6-11), comprising:

notifying by an entertainment system call manager, via a data network, a call management server residing in a telephony provider network to monitor calls on the telephony provider network for the entertainment system (FIG. 3 and column 10, lines 11-25) [The DET 25 sends a response to the ISCP 15 to monitor the call via the broadband network];

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holding in the telephony-network-resident call management server a call on the telephony provider network for the entertainment system prior to routing the call to the entertainment system, in response to the notifying (FIG. 5B and column 11, lines 5-15) [The ISCP 15 sends the call related information to the DET 25 prior the send a response to the SSP 11, thereby holding in the telephony-network-resident call management server a call on the telephony provider network];

receiving in the entertainment system call manager a held call signal indicating a held call, during a program play by the entertainment system to a user, via the data network from the telephony-network-resident call management server (FIG. 5B and column 11, lines 11-15) [The DET 25 format the calling party data and displays the message along the bottom of the screen TV 27 for the user];

presenting by the call manager a selectable call handling option chosen from a group comprising one or more of take the call, send the call to voice mail, forward the call to another number, play a message, ignore the call, and reject the call, in response to the held call signal through the entertainment system during the program play (FIG. 5B and column 11, lines 15-24) [The DET 25 displays instructions for the user to handle the incoming call such as call blocking, call forwarding completing call, thereby presenting by the call manager a selectable call handling option chosen from a group comprising one or more of options]; and

handling the held call according to a call handling option selected by the user through the entertainment system and provided via the data network to the telephony-network-resident call management server (FIG. 5B and column 11, lines 25-36) [The

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DET 25 sends a message representing the user selection so the call can be completed accordingly].

Regarding **claim(s) 9**, Voit discloses all the limitations of **claim(s) 9** as sated in **claim(s) 4**'s rejection and further more Voit discloses a call management server (ISCP 15 on FIG. 1) and a television call manager (DET 25 on FIG. 1).

Regarding **claim(s) 8**, Voit discloses a call management system, wherein the call handling option for the selection are displayed through the subscriber entertainment system (column 11, lines 5-24).

Regarding **claim(s) 10**, Voit discloses a call management system, further comprising a remote control device in communication with the television call manager, wherein the subscriber selects the call handling option with the remote control device (column 11, lines 25-32).

Regarding **claim(s) 11**, Voit discloses a call management system, wherein the subscriber entertainment system comprises the television (27 on FIG. 1).

Regarding **claim(s) 12**, Voit discloses a call management system, further comprising a television detector in communication with the television to detect when the television is on and to signal the telephony-network-resident call management server,

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via the data network, to route calls on the telephony provider network through the telephony-network-resident call management server (column 11, lines 5-24).

Regarding **claim(s) 13**, Voit discloses a call management system, wherein a caller identification corresponding to the held call at the telephony-network-resident call management server is provided, via the data network, to the television call manager of the subscriber entertainment system and displayed through the subscriber entertainment system (column 9, lines 56-67).

Regarding **claim(s) 14**, Voit discloses a call management system, wherein if the selected call handling option is to take the call, the telephony-network-resident call management server forwards the call via the telephony network to the television call manager of the subscriber entertainment system (column 11, lines 33-44).

Regarding **claim(s) 15**, Voit discloses a call management system, wherein the held call at the telephony-network-resident call management server is answered via the telephony network through the subscriber entertainment system (column 10, lines 26-33).

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. **Claim(s) 2-3, 6 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit in view of Palmer et al. (US 2001/0038690 A1).

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Regarding **claim(s) 2 and 6**, Voit as applied to **claim(s) 4 and 9** above differs from **claim(s) 2 and 6** in that it fails to disclose buffering the program being played through the entertainment system when the held call signal is received.

However, Palmer teaches buffering the program being played through the entertainment system when the held call signal is received (¶ 0058).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Voit using the apparatus as taught by Palmer.

This modification of the invention enables the system to buffer the program being played through the entertainment system when the held call signal is received so that the user would resume playback after the call.

Regarding **claim(s) 3 and 16**, Palmer teaches a method of managing calls, further comprising buffering the program being played through the entertainment system in response to a specific user request (¶ 0058).

8. **Claim(s) 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit in view of Kauffman et al. (US 5,003,591).

Regarding **claim(s) 17**, Voit as applied to **claim(s) 1** above differs from **claim(s) 17** in that it fails to disclose wherein the held call at the telephony-network-resident call management server is a text message.

However, Kauffman teaches a method of managing calls, wherein the held call at the telephony-network-resident call management server is a text message (column 8, lines 19-31).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Voit using the apparatus as taught by Palmer.

This modification of the invention enables the system to have the held call at the telephony-network-resident call management server to be a text message so that the screen display can be used to distribute text messages.

Regarding **claim(s) 18**, Kauffman teaches a method of managing calls, wherein the text message is displayed through the entertainment system (column 8, lines 19-31).

Response to Arguments

9. Applicant's arguments with respect to **claim(s) 2-4, 6, 8-18 and 21** have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GERALD GAUTHIER
PATENT EXAMINER**

g.g.

July 15, 2005


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